

Panaji, 18th March, 2021 (Phalguna 27, 1942)

SERIES II No. 51

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are three Extraordinary issues to the Official Gazette, Series II No. 50 dated 11-03-2021 as follows:—

- (1) Extraordinary dated 12-03-2021 from pages 1559 to 1560 regarding Notification from Department of Finance.
- (2) Extraordinary (No. 2) dated 15-03-2021 from pages 1561 to 1566 regarding Order from Department of Home.
- (3) Extraordinary (No. 3) dated 16-03-2021 from pages 1567 to 1568 regarding Order from Department of Urban Development.

GOVERNMENT OF GOA

Department of Co-operation

Office of the Asst. Registrar of Co-operative Societies

Notification

No. AR/NZ/SSCHMSL/2020

In exercise of the powers vested in me under Section 8(1) of the Goa Co-op. Societies Act, 2001, "Sol Sienda Co-operative Housing Maintenance Society Ltd., Verem, Reis Magos, Bardez-Goa", has been registered under Code Symbol No. ARCS/NZ/HSG/509(d)/Goa.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 18th February, 2021.

Certificate of Registration

Sol Sienda Co-operative Housing Maintenance Society Ltd., Verem, Reis Magos, Bardez-Goa has been registered on 18-02-2021 and it bears registration Code Symbol No. ARCS/NZ/HSG/509(d)/Goa. It is classified as "Co-operative Housing Maintenance Society" in terms of Rule 8(1)(7) and sub-classified as "Co-operative Housing

Maintenance Society" under sub-rule 7(d) of Rule 8(1) of the Goa Co-operative Societies Rules, 2003.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 18th February, 2021.

Notification

No. AR/NZ/MAFVCHSL/2020

In exercise of the powers vested in me under Section 8(1) of the Goa Co-op. Societies Act, 2001, "Mother Agnes Field View Co-op. Housing Society Ltd., Mainavada, Aldona, Bardez-Goa," has been registered under Code Symbol No. ARCS/NZ/HSG/508(b)/Goa.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 11th February, 2021.

Certificate of Registration

Mother Agnes Field View Co-op. Housing Society Ltd., Mainavada, Aldona, Bardez-Goa, has been registered on 11-02-2021 and it bears registration Code Symbol No. ARCS/NZ/HSG/508(b)/Goa. It is classified as "Housing Society" in terms of Rule 8(1)(7) and sub-classified as "Co-partnership Housing Society" under sub-rule 7(b) of Rule 8(1) of the Goa Co-operative Societies Rules, 2003.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 11th February, 2021.

Notification

No. AR/NZ/KEPCHSL/2020

In exercise of the powers vested in me under Section 8(1) of the Goa Co-op. Societies Act, 2001,

"Kamat Exotic Palms Co-op. Housing Society Ltd., Ganeshpuri, Mapusa, Bardez-Goa" has been registered under Code Symbol No. ARCS/NZ/HSG/507(b)/Goa.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 27th January, 2021.

Certificate of Registration

"Kamat Exotic Palms Co-op. Housing Society Ltd., Ganeshpuri, Mapusa, Bardez-Goa" has been registered on 27-01-2021 and it bears registration Code Symbol No. ARCS/NZ/HSG/507(b)/Goa. It is classified as "Housing Society" in terms of Rule 8(1)(7) and sub-classified as "Co-partnership Housing Society" under sub-rule 7(b) of Rule 8(1) of the Goa Co-operative Societies Rules, 2003.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 27th January, 2021.

Notification

No. AR/NZ/MPCHSL/2020

In exercise of the powers vested in me under Section 8(1) of the Goa Co-op. Societies Act, 2001, "Monarch Palms Co-op. Housing Society Ltd., Baman Vado, Candolim, Bardez-Goa" has been registered under Code Symbol No. ARCS/NZ/HSG/510(b)/Goa.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 2nd March, 2021.

Certificate of Registration

"Monarch Palms Co-op. Housing Society Ltd., Baman Vado, Candolim, Bardez-Goa" has been registered on 02-03-2021 and it bears registration Code Symbol No. ARCS/NZ/HSG/510(b)/Goa. It is classified as "Housing Society" in terms of Rule 8(1)(7) and sub-classified as "Co-partnership Housing Society" under sub-rule 7(b) of Rule 8(1) of the Goa Co-operative Societies Rules, 2003.

M. N. Kalangutkar, Asstt. Registrar (Co-op. Societies), North Zone.

Mapusa, 2nd March, 2021.

Department of Education, Art & Culture

Directorate of Technical Education
Administration Section

Order

No. DTE/ADMN/3-2/PF(AAS)/Pt. File/V/2992

Government is pleased to accept the notice of Voluntary Retirement dated 01-01-2021 tendered by Smt. Anjali A. Sardessai, System Analyst of Directorate of Technical Education under Rule 48-A of CCS (Pension) Rules, 1972 and relieve her from the post of System Analyst of Directorate of Technical Education w.e.f. 01-04-2021 (b.n.).

By order and in the name of the Governor of Goa.

Dr. Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 4th March, 2021.

Directorate of Art & Culture

Order

No. DAC/CL/RRRLF-COM/2020-21/3828

Government of Goa is pleased to extend the tenure of committee from 12-08-2020 consisting of following members to deal with various schemes of Raja Rammohun Roy Library Foundation (RRRLF), Kolkata for Krishnadas Shama Goa State Central Library, Patto, Panaji-Goa.

- | | | |
|------------------------------------------------------------------------------------------|---|-----------|
| 1. Secretary (Art & Culture) | — | Chairman. |
| 2. Director, Directorate of Art & Culture | — | Member. |
| 3. Director, Raja Rammohun Roy Library Foundation (RRRLF), Kolkata or his representative | — | Member. |
| 4. Nominee of the Chairman of Raja Rammohun Roy Library Foundation (RRRLF) | — | Member. |
| 5. Smt. Pia Rodrigues (President of State Library Association) | — | Member. |
| 6. Director, Directorate of Education or his Representative | — | Member. |
| 7. Shri Jayesh Arjun Raut, (Educationist) | — | Member. |
| 8. Curator, Krishnadas Shama Goa State Central Library | — | Convener. |

The committee shall meet as and when required to scrutinize the proposals, select and recommend the various schemes to Raja Rammohun Roy Library Foundation (RRRLF), Kolkata.

The non-officials members of the committee shall be entitled for TA/DA as per the Government Rules.

The Government has extended the approval of Committee for further tenure of 3 years w.e.f. 12-08-2020.

By order and in the name of the Governor of Goa.

Shri *Sagun R. Velip*, Director (Art & Culture).

Panaji, 09th March, 2021.

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Department of Labour

Notification

No. 28/2/2021-LAB/132

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 26-02-2021 in Ref. No. IT/44/13 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 12th March, 2021.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT

GOVERNMENT OF GOA
AT PANAJI

**(Before Mr. Vincent D'Silva, Hon'ble Presiding
Officer)**

Ref. No. IT/44/13

Shri Dattahas Tilve
& 141 Others,
Rep. by the General Secretary,
Gomantak Mazdoor Sangh,
G-5, Macedo Apartment,
Tisk, Ponda-Goa (403401) ... Workmen/Party I
V/s

The Managing Director,
M/s GKB Hi-Tech Lenses Pvt. Ltd.,
Tivim Industrial Estate,
Karaswada, Mapusa, Goa. ... Employer/Party II

Workmen/Party I represented by Ld. Adv. Shri S. P. Gaonkar.

Employer/Party II represented by Ld. Adv. Shri G. K. Sardessai.

AWARD

**(Delivered on this 26th day of the month
of February of the year 2021)**

By Order dated 21-11-2013, bearing No. 28/21/2011-LAB/776, the Government of Goa in exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), has referred the following dispute to the Tribunal for adjudication.

"(1) Whether the action of the management of M/s GKB Hi-Tech Lenses Private Limited, Plot No. 50, Tivim Industrial Estate, Tivim, Karaswada, Mapusa-Goa in terminating the services of 142 workmen shown in Annexure hereto with effect from 06-09-2013, is legal and justified?"

(2) If not, to what relief the workmen are entitled?"

2. On receipt of the reference, it was registered as IT/44/13 and registered A/D notices were issued to both the parties. Upon appearance, Party I filed a Claim statement at Exh. 3 and Party II filed a Written Statement at Exh. 8.

3. In short, the case of Party I is that the Party I Workmen were working with Party II since last several years and are in continuous employment. However, the Employer has not been implementing provisions of labour laws, such as Factory Act, Payment of Bonus Act, etc. and they have been forced to work as bonded labourers without payment of overtime allowance. The Party I in order to secure justice joined the Union namely; Gomantak Mazdoor Sangh in the month of June, 2013 which was conveyed to the Management vide their letter dated 23-06-2013 along with list of workers. The name of the local committee duly elected by the workers was also sent to the Management. There are three more Units of the same establishment in the Tivim Industrial Estate and the workers of other three Units have submitted the Charter of Demands on behalf of the workers in the year 2010 and the dispute is pending. The said dispute is covering the workers working in this Unit as the Balance Sheet and other services including management are common, so also the services of the said workers are governed by one Certified Standing Order.

4. The reference of Charter of Demands raised by the Union is pending and in order to get the clarity and avoid confusion, the Workmen and the union had resolved to submit the resolution adopting the same demands submitted by the Union and adding them in the reference which was informed to the Management vide their Demand Letter dated 25-06-2013. The Union thereafter raised Charter of Demands before the Assistant Labour Commissioner vide letter dated 10-07-2013 and on receipt of the Intervention Letter dated 10-07-2013, the ALC called both the parties for conciliation vide its notice dated 23-07-2013. However, as the Employer did not attend the conciliation proceedings, it was adjourned. On receipt of the formation of the Union, the Management started harassing the workers who became their members and started implementing various unfair labour practices including the formation of Management sponsored Union and giving them financial assistance. The Management also started threatening the Members of Gomantak Mazdoor Sangh and also gave threats of shifting the machinery in the last week of July, 2013 and also shifted a running machine on 11-08-2013. The workers therefore unanimously resolved to stay outside the gate peacefully on paid holidays and weekly off days to protect the interest which decision was taken only after the Management refused to attend the conciliation proceedings and discuss with the Union and their representative. The workers were in peaceful agitation on 15-08-2013 in front of the Gate, however, in order to victimize and terrorize the workers on 23-08-2013, the Management had illegally terminated three workmen and suspended nine other workmen including the Officer bearers of the Union.

5. The Party I in protest against the illegal and malafide action of the Management have resolved to give 14 days' notice of agitation/strike w.e.f. 07-09-2013 vide their notice dated 23-08-2013 and on receipt of the said notice, the Management started harassing the other workers and started recruiting new workers on contract from outside the State and also illegally dismissed all 142 workmen mentioned in the reference and on receipt of the illegal dismissal order, the workmen had submitted a demand letter 15-09-2013 stating that the dismissal is illegal and bad in law. The Management however, failed to withdraw the dismissal order and therefore they had no other option but to raise the dispute before the Appropriate Authority. The Party II has not followed the principles of natural justice before their

dismissal from service nor followed provisions of Industrial Disputes Act. The Party II had not issued any charge-sheets setting out the detailed charges nor inquiry was conducted and has employed new workmen in their place. The Party II has also violated Clause 25 of Certified Standing Orders by dismissing the workmen without conducting the inquiry and without payment of 75% wages as Subsistence Allowance. The Party I workmen are unemployed and could not succeed in getting any employment. The Party II had also not obtained permission from Appropriate authority as their Charter of Demands was pending and therefore the dismissal order is illegal, unjustified and bad in law. The Party I workmen are therefore entitled for the relief claimed.

6. In the Written statement, Party II have stated that all the workmen have accepted all their legal dues arising out of termination in full and final settlement. The reference has been made by persons who are essentially performing supervisory functions including Dattahas Tilve and others. The Party II have not terminated the services of Bindiya G. Mandrekar, Mithun G. Khorjuvekar and Smriti S. Mayenkar. The Party II is a private limited company having three manufacturing Units at Tivim Industrial Estate manufacturing ophthalmic lenses and allied products. The Company is manufacturing in Plot No.17A where concerned employees were employed where production of ophthalmic lenses is based as per the prescription/requirements of the customers and in case the Company fails to give the delivery of the spectacles on the scheduled date, there is every possibility of not only orders getting cancelled but the Company losing the customers as well as would suffer huge financial loss. The Company has invested substantially in machineries which includes expensive imported machineries with a view to deal with demand. The manufacturing of the plastic lenses needs to be handled in an appropriate manner at a specific temperature and even when the manufacturing is not done on a holiday, the equipment and the system are required to function continuously to ensure maintenance of the temperature of the varnish which can result into varnish getting spoiled and hardened in the process. The Party II is using online web based server for entering orders and execution of the same and even if one of the servers stops due to power failure or any sort of mishap, the entire system would collapse and the Company would come to a standstill and therefore, the Party II has to maintain a constant vigil to ensure that every member of the essential team perform their duty at all time.

7. The Party I workmen were perfectly aware of the delicate and sensitive nature of the operations and therefore used pressure and virtually used blackmailing tactics of go-slow and acts of indiscipline thereby creating a situation of uncertainty and tensed atmosphere in the factory. The Party II has always maintained highest ethical standards including caring approach towards the employees and that maximum benefits by way of fair, just and reasonable wage structure and other statutory benefits are extended to the workmen. The Party II was however surprised that inspite of maintaining cordial relationship, the workmen intentionally and willfully slowed down production from 13-04-2013 and as a result of go-slow, the Company suffered huge financial losses. The Party II informed the workmen by their notice dated 15-04-2013 that go-slow is a pernicious practice and is a serious misconduct under the Certified Standing Orders of the Company and were advised to restore normal production immediately. The slow-down in production continued on 15-04-2013. The Party II again by second notice dated 16-04-2013 displayed on the notice board advised Party I workmen to restore normalcy in production and also to give an undertaking recording their willingness to discharge their duties faithfully. The attention of the workmen were also invited to the go-slow and were advised to restore production. However, the workmen did not furnish any undertaking and there was no normalcy but in fact production was reduced. The Management thereafter decided to appoint an Internal Inquiry Committee to inquire into the go-slow resorted by the workmen and identify their manner in which the go-slow has been commenced and continued and pinpoint the consequences thereof. The Committee thereafter submitted its report.

8. The Management thereafter displayed a notice inviting the attention of workmen to the findings of the Inquiry Committee and advised the workmen to restore normalcy but as there was failure to restore normalcy the Management appealed to the workers for co-operation. The go-slow continued causing losses. The Management continued to be patient. The Workmen commenced acts of indiscipline by way of refusal to carry out the instructions of the superiors. The workmen all of a sudden on 15-08-2013 blocked the entry of the essential staff through the factory gate of Nilesh Pawar and others who were required to enter the Factory for the purpose of carrying out their work. The Officer namely, Nilesh Pawar requested the Party I workmen not to obstruct their entry and also invited their attention to the need and urgency

of the said staff in attendance of maintenance work. The workmen however did not show any sign of acceding to the request and continued with the blockage thereby causing tense situation at the factory as a result of which no employee of Party II could enter the factory premises for the whole day. The Party I again on 18-08-2013 repeated their acts by blocking the gate and preventing the entry of the essential personnel which incident was reported to General Manager, Mr. Bhanu Naik on the following day and the report to that effect was submitted by the Supervisor. The Management tried to convince Party I workmen not to repeat such incidents but they showed no sign of improvement.

9. There was a suspicious movement of Party I workmen in the factory premises on 22-08-2013 and the Party II apprehended a mischief on the part of Party I and therefore a complaint was addressed to the Mapusa Police Station inviting their attention and requested for police protection. The Party I workmen gathered at the Factory on 22-08-2013 at 5.30 p.m. when the employees of the second shift were to report for work. The Party I workmen tried to block the entry of the workers and also abused them with filthy language. The Party I workmen are only growing aggressive by each passing day. The Officer namely Bhanu Naik invited attention of the workmen that their activities are illegal and of criminal nature and requested them to refrain from the said act, however, inspite of repeated appeals there was no normalcy. The Party I workmen stopped the first shift work and thereafter resorted to illegal and unjustified strike. The stoppage of production was abrupt and without prior notice. The Party II by notice dated 23-08-2013 displayed on the notice board advised the workmen to restore work, however the workmen squatted at the entrance of the gate and started preventing other employees from entering the Factory and also gheroaed the Management personnel in their respective chambers and hence the Management had no option but to suspend the operation of the Plant as there was likelihood of threat. A notice was displayed on 24-08-2013 regarding suspension of operation of the Plant. The Management however, resolved to give another opportunity to them to restore normalcy by notice dated 27-08-2013 and revoked the suspension of operation and informed the Workmen of commencement of normal operation and advised to report for work however, they continued with illegal strike.

10. The Management also requested the Workmen to resume duty by their letter dated 29-08-2013 and letter dated 30-08-2013, however, there was no improvement in the situation of the Factory. The Management therefore decided to appoint One-Man Internal committee to investigate into the misconduct committed by the workmen and a detailed report was submitted indicting the workmen. The Management considered the gravity and seriousness of the charges which the Internal Committee had held the workmen guilty and decided to dismiss them from service and accordingly a notice dated 06-09-2013 was displayed. The Management also dispatched dismissal letters to each of the workmen by registered post and paid all legal dues of the workmen in full and final settlement. The Party II Company suffered huge losses and there was drastic fall in the orders for the product so also the Plant is operating at 15 to 20 percent capacity. The termination of the workmen is legal and justified. The workmen who are party to the reference are not the members of the Union when the Charter of Demands was raised. The Charter of Demands dated 01-12-2010 raised by the Union was not on behalf of the workmen of Plot No.17A. The Party I Union adopted an approach that was not conducive to the continuity of productive process. The Party I Workmen are not entitled for any reliefs.

11. In the rejoinder at Exh. 6, the Party I denied the case put forth by Party II in the written statement.

12. Issues came to be framed at Exh. 24, which are as follows:

- (1) Whether the Party I proves that as a part of victimization, the Management illegally dismissed all 142 workmen mentioned in the reference w.e.f. 6-9-13?
- (2) Whether the Party I proves that before the termination of the workmen, Party II did not follow the provisions of Industrial Disputes Act, 1947?
- (3) Whether the Party I proves that Party II has violated Section 33 of the Industrial Disputes Act, 1947?
- (4) Whether the Party I proves that reference made in the respect of Mr. Dattahas Tilve, Mr. Janardan Prabhakar Sawal, Mr. Laxman Kesarkar, Mr. Mahesh Arjun Ghadi, Mr. Rupesh Shiva Mandrekar, Mr. Sagar Vishnu Parab, Ms. Suchita S. Ajgaonkar,

Ms. Sanjyoti Naik, Mr. Santosh Govenkar, Mr. Santosh Takarkar, Ms. Urvi Umesh Bandodkar and Ms. Anadha Naik is not an Industrial dispute as they were essentially and predominately performing supervisory functions?

- (5) Whether the Party II proves that the Charter of Demands dated 1-12-10 by Goa Trade and Commercial Workers Union was not on behalf of the workmen of Plant on Plot No. 17A as the three units on Plot No. 50, No. 12 and 13 and No. 17A are three separate units having separate legal entity and cannot be clubbed as single unit for any statutory purpose?

- (6) What relief? What Award?

13. An Additional Issue No. 3B was framed at Exhibit 28.

3B. "Whether the Party I proves that Mr. Dattahas Tilve, Mr. Janardan Prabhakar Sawal, Mr. Laxman Kesarkar, Mr. Mahesh Arjun Ghadi, Mr. Rupesh Shiva Mandrekar, Mr. Sagar Vishnu Parab, Ms. Suchita S. Ajgaonkar, Ms. Sanjyoti Naik, Mr. Santosh Govenkar, Mr. Santosh Takarkar, Ms. Urvi Umesh Bandodkar and Ms. Anadha Naik are workmen under Industrial Disputes Act, 1947?"

14. In support of the case, Party II examined its witness, Shri Neeraj Gupta, and produced on record a copy of Charter of Demands dated 1-12-2010 at Exh. 32, a copy of Order of reference dated 21-11-2013 at Exh. 33, a Copy of unionization of workmen dated 16-1-2013 at Exh. 34, a Copy of unionization of workmen dated 7-2-2013 at Exh. 35, a Copy of resignation letters at Exh. 36 Colly, a Copy of letter dated 23-06-2013 along with joining letters of workmen, at Exh. 37 Colly, copy of intimation letter dated 23-6-2013 of newly elected committee for the year 2013-14 at Exh. 38 Colly, copy of Notice dated 15-4-2014 at Exh. 39, Copy of Notice dated 16-04-2013 sent to individual employees at Exh. 40 Colly, Copy of Notice dated 16-4-2013 at Exh. 41 Colly, copy of Notice dated 20-4-2013 at Exh. 42 Colly, Copy of Notice dated 7-5-2013 at Exh. 43, Copy of Notice dated 16-8-2013 at Exh. 44, copy of letter dated 16-8-2013 addressed to the HR Manager at Exh. 45, Copy of letter dated 16-8-2013 addressed to the HR Manager at Exh. 46, Copy of complaint dated 16-8-2013 addressed to Mapusa Police Station at Exh. 47, Copy of complaint dated 16-8-2013 along with Photographs at Exh. 48 Colly, Copy of letter dated 19-8-2013 addressed to the HR Manager at Exh. 49, Copy of letter dated 20-8-2013 at Exh. 50, Copy of complaint dated 22-8-2013 with photographs at Exh. 51, copy of

notice dated 23-8-2013 at Exh. 52, copy of notice dated 24-8-2013 at Exh. 53, copy of notice dated 27-08-2013 at Exh. 54, Copy of notice dated 30-8-2013 at Exh. 55 Colly, copy of machinery imported for 2012-13 at Exh. 56, copy of invoice dated 7-11-2012 at Exh. 57, Copy of Invoice dated 4-3-2013 at Exh. 58, copy of invoice dated 8-3-2012 at Exh. 59.

15. The Party II also produced a Copy of Invoice dated 21-3-2013 at Exh. 60, Copy of Invoice of machinery purchased dated 28-6-2013 at Exh. 61, Copy of invoice dated 8-7-2013 at Exh. 62, Copy of invoice dated 12-7-2013 at Exh. 63, Copy of invoice dated 1-8-2013 at Exh. 64, Copy of Engineers report dated 25-8-2013 along with travel details at Exh. 65 Colly, Copy of chartered engineers report dated 17-4-2013 at Exh. 66, Copy of monthly production report for the period 1-11-2012 to 1-1-2014 at Exh. 67 Colly, Copy of customer's complaints at Exh. 68, Copy of letter of appointment dated 17-4-2013 at Exh. 69, Copy of report dated 19-4-2013 at Exh. 70, Copy of letter of appointment dated 30-8-2013 at Exh. 71, Copy of report dated 31-8-2013 at Exh. 72, Copy of Director's Report dated 2-9-2013 at Exh. 73, Copy of last and final request letter dated 29-8-2013 addressed to Sushila Revodkar and her reply dated 2-9-2013 at Exh. 74 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Suchita Ajgaonkar and her reply dated 2-9-2013 at Exh. 75 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Rupesh Raul and his reply dated 4-9-2013 at Exh. 76 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Sushant Naik and his reply dated 2-9-2013 at Exh. 77 Colly, Copy of last and final letter dated 29-08-2013 addressed to Vishwanath Raul at Exh.78 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Pramod Dhuri and his reply dated 4-9-2013 at Exh. 79 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Pritesh Naik and his reply dated 4-9-2013 at Exh. 80 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Laxman Kesarkar and his reply dated 5-9-2013 at Exh. 81 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Anand Nagvekar and his reply dated 2-9-2013 at Exh. 82 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Dattahas Tilve at Exh. 83, Copy of reply of Dattahas Tilve dated 2-9-2013 at Exh. 84.

16. The Party II also produced on record a copy of dismissal letter dated 6-9-2013 at Exh. 85, Copy of full and final settlement letter dated 8-10-2013 along with copy of cheque at Exh. 86 Colly, Copy of reply of Dattahas Tilve dated 28-10-2013 at Exh. 87 Colly, Copy of letter issuing gratuity cheque to

Dattahas Tilve dated 30-10-2013 at Exh. 88 Colly, Copy of last and final request letter dated 29-8-2013 addressed to Krishna Dabholkar to resume duty at Exh. 89, Copy of reply of Krishna Dabholkar dated 2-9-2013 at Exh. 90, Copy of dismissal letter dated 6-9-2013 at Exh. 91, Copy of full and final settlement letter dated 8-10-2013 along with cheque at Exh. 92 Colly, Copy of reply of Krishna Dabholkar dated 28-10-2013 at Exh. 93, Copy of letter of issuing gratuity cheque to Krishna Dabholkar dated 30-10-2013 at Exh. 94, Copy of statement of full and final settlement at Exh. 95, Copy of Bank statement of Axis Bank at Exh. 96, 10 Photographs along with two CDs, one containing video footage and other with photos at Exh. 97 Colly, Copy of customer's prescription at Exh. 98, copy of list of chemicals used in making lenses at Exh. 99, copy of process involved in manufacturing of lenses at Exh.100, copy of process involved in manufacturing of lenses at Exh. 101, copy of notice displayed on notice board along with annexure at Exh. 102 Colly, copy of notice U/s 13(2) of SARFAESI Act, 2002 dated 25-9-2015 from SBI at Exh.103 and a copy of notice to the Borrowers/Guarantors from SBI dated 11-10-2014 at Exh. 104.

17. The Party II examined its second witness Shri Girish Dabholkar and produced on record a copy of Production Process Flowchart at Exh.119, Copy of leave intimation form approved by Santosh Govekar dated 8-12-2009 at Exh.120, Copy of leave intimation form approved by Santosh Thakarkar dated 16-12-2009 at Exh. 121, Copy of overtime slip approved by Santosh Thakarkar at Exh. 122, Copy of e-mail dated 19-4-2011 requesting enter earned leave approved by Mahesh Ghadi at Exh.123, Copy of e-mail dated 17-5-2012 at Exh. 124, Copy of e-mail dated 2-2-2013 at Exh. 125, Copy of e-mail dated 9-2-2013 at Exh. 126, Copy of e-mail dated 17.8.2012 from Dattahas Tilve at Exh.127, Copy of e-mail dated 2-11-2012 from Dattahas Tilve at Exh.128, Copy of e-mail dated 12-11-2012 from Dattahas Tilve at Exh. 129, Copy of e-mail dated 13-2-2013 at Exh.130, Copy of stock transfer notes at Exh.131 Colly, Copy of e-mail dated 14-12-2012 at Exh.132, Copy of e-mail dated 8-10-2012 at Exh. 133, Copy of material out gate pass dated 13-5-2013 at Exh. 134.

18. The Party II also produced copies of tax invoices approved by Laxman Kesarkar at Exh. 135 Colly, Copy of e-mail dated 26-10-2012 at Exh. 136, Copy of e-mail dated 30-12-2012 at Exh. 137, Copy of e-mail dated 25-4-2012 at Exh. 138, Copy of e-mail dated 13-12-2012 at Exh. 139, Copy of e-mail dated 16-4-2011 at Exh. 140, Copy of email dated 19-5-2011 at Exh. 141, Copy of e-mail dated

24-5-2011 at Exh. 142, Copy of e-mail dated 17-6-2011 at Exh. 143, Copy of e-mail dated 22-12-2011 at Exh. 144, Copy of e-mail dated 2-7-2012 at Exh.145, Copy of summary report of cycle count at Exh.146, Copy of e-mail dated 1-3-2011 at Exh.147, a copy of appointment letter of Milinda Haldankar @ Urvi Bandonkar dated 24-10-1996 at Exh.148 (in cross), a copy of appointment letter of Dattahas Tilve dated 1-9-2001 at Exh. 149 (in cross), a copy of appointment letter of Anadha Naik dated 1-4-2000 at Exh.150 (in cross), a copy of appointment letter of Trupti Samant dated 14-3-1998 at Exh. 151 (in cross) and a copies of original e-mails downloaded from the system of Exh. 123 to 130, 132, 133, 136 to 145 and 147 at Exh. 152 Collywere produced. The Party II also examined its third witness Ms. Swarnalata Rokkamand produced on record a copy of appointment letter dated 1-8-2007 marked as Exh. 157 (in cross), photographs at Exh. 158 Colly (in cross) and a copy of Suit for Injunction, reply, written statement and order on temporary Injunction dated 23-8-2013 at Exh. 159 Colly (in cross). The Party II also examined its fourth witness, Shri Nilesh Pawar and produced on record copy of handwritten letter dated 31-8-2018 at Exh. 171, copy of handwritten letter dated 15-9-2018 at Exh.172, copy of letter dated 25-8-2018 issued to Nilesh Pawar by Party II at Exh. 173, copy of letter dated 31-10-2018 issued to Nilesh Pawar by Party II at Exh. 174, copy of attendance cards of entire month of August, 2013 of all the workmen at Exh. 175 Colly. The Party II examined its fifth witness Shri Yogesh Sawal and produced on record copy of handwritten letter at Exh. 179, Copy of letter dated 25-8-2018 at Exh.180 and a copy of letter dated 31-10-2018 at Exh.181.

19. The Party I examined its witness, Shri Puti Gaonkar and produced on record copy of joining letters dated 23-6-2013 at Exh. 185 Colly, Copy of formation of union dated 23-6-2013 at Exh. 186, Copy of letter dated 23-6-2013 mentioning list of local committee at Exh. 187, Copy of Charter of demands dated 25-6-2013 at Exh. 188, Copy of letter to ALC, Mapusa dated 10-7-2013 at Exh. 189, Copy of notice from ALC, Mapusa dated 23-7-13, 5-8-13, 13-8-13 & 15-1-14 at Exh.190 Colly, Copy of notice dated 16-8-2013 at Exh.191, Copy of reply dated 19-8-2013 to the above notice at Exh. 192, Copy of notice of agitation dated 23-8-13 at Exh. 193, Copy of letter to Labour Commissioner dated 25-8-13 at Exh.194, Copy of letter to ALC, Mapusa dated 25-8-13 at Exh. 195, Copy of letter of dismissals dated 6-9-13 at Exh.196 Colly, Copy of letter to Labour Commissioner for intervention for illegal

dismissal at Exh. 197, Copy of demand letter dated 15-9-2013 of all workers at Exh. 198 Colly, Copy of letters dated 8-10-13 from the management to all the workers at Exh. 199 Colly, Copy of reply to the above letters dated 28-10-2013 at Exh. 200 Colly, Copy of order dated 23-10-08 along with certified standing orders of the company at Exh. 201 and a copy of dismissal letter of Mrs. Saachi S. Bhonsle at Exh. 202, a copy of Constitution and Rules (Bye-laws) of the union at Exh. 203 (in cross) and a copy of the list of workmen who were re-employed after the Order of Hon'ble High Court dated 21-11-2017 at Exh. 204 Colly (in cross). The Party I also examined its second witness Ms. Rashmi Dhargalkar and its third witness Shri Jivan Mainekar and produced on record a copies of letters of dismissal dated 6-9-2013 of the workmen at Exh. 210 Colly (in cross).

20. Heard arguments. Notes of Written arguments came to be placed on record by Party I as well as Party II.

21. I have gone through the records of the case and have duly considered the arguments advanced. My answers to the above issues are as follows:

Issue No. 1	...	In the Affirmative
Issue No. 2	...	In the Affirmative
Issue No. 3	...	In the Affirmative
Issue No.3-B	...	In the Affirmative
Issue No. 4	...	In the Affirmative
Issue No. 5	...	In the Negative
Issue No. 6	...	As per final order.

REASONS

Issue No. 3 and 4.

22. The above two issues are taken up prior to other issues as the Party II has alleged that the above named workers are not the workmen under Section 2(s) of the Industrial Disputes Act and that they are Supervisors. It is therefore in such circumstances the Party I workmen are required to prove that the persons named in Issue No. 3B and Issue No. 4 are the workmen as stipulated u/s 2(s) of the Act.

23. Learned Advocate Shri G. K. Sardessai has submitted that Party II in the Written Statement has stated that out of 142 workmen, the workmen namely; Bindiya Govind Mandrekar, Mithun Gurudas Khorjuvekar and Smruti S. Mayenkar were not terminated. The witness of Party II Shri Girish Dabholkar has stated that among 139 terminated employees, the employees namely; Mr. Dattahas Tilve, Mr. Janardan Prabhakar Sawal, Mr. Laxman

Kesarkar, Mahesh Arjun Ghadi, Mr. Rupesh Shiva Mandrekar, Mr. Sagar Vishnu Parab, Ms. Suchita S. Ajgaokar, Ms. Sanjyoti Naik, Mr. Santosh Govenkar, Mr. Santosh Takarkar, Ms. Urvi Umesh Bandodkar and Anadha Naik were employed as Supervisors and were essentially and predominantly performing supervisory functions and their nature of duties were shift handling and assignment of work schedule, etc. Shri Dabholkar has also identified the signatures of the workmen on leave intimation form and the e-mails to prove that they are not workmen. The Party I workmen have not led any evidence to show that they were workmen under the Act and in support thereof, he relied upon the cases of (i) **Premier Automobile v/s Employees Union, 1994(3) LLJ 1048** and (ii) **Vinayak Banurao Shinde v/s S. R. Shinde, Member Industrial Court, Thane and two others, 1985 I CLR 318**.

24. Per contra, Learned Advocate Shri S. P. Gaonkar has submitted that the nature of the duties has been specifically mentioned in Para 6 and 9 of the Rejoinder filed by Party I and that the Party I workmen were doing the work of Machine Operators and none had supervisory or managerial powers. Learned Advocate Shri Gaonkar has also submitted that Mr. Girish Dabholkar who has been examined by the Management has admitted that from June, 2010 till May, 2014 he was posted in South India operations of Party II at Bangalore and that he deposed that some of the workmen were employed in supervisory category and listed their nature of duties. However, on the date of their dismissal on 06-09-2013 he was working at Bangalore and therefore his evidence cannot be considered. He further submitted that for a workman to be a Supervisor, he must supervise the work of another worker and no evidence with regards to the same has been led by Party II and not a single workman who had worked under these workmen has deposed to show the same and therefore, the above two issues have to be answered in the negative.

25. Needless to mention, issue No. 3B and 4 have to be proved by the Party I workmen. The Party I have claimed that they are the workmen within the definition of Section 2(s) of the Industrial Disputes Act, while it is the case of the Party II that they were working as Supervisors, which means to oversee, that is, to look after the work done by the persons. The essence of supervising consists in overseeing by one person over the work of others. The witness of the Management Shri Girish Dabholkar has stated in para 15 of his Affidavit the nature of duties performed by the above persons including shift handling and

assignment of work schedule, training and implementation of charges, evaluating weekly production activity, monthly meetings, etc. In his cross-examination, he admitted that all the employees mentioned in Para 15 were working in Plot No.17A and he was not working in the said plot in the month of June, 2010 to May, 2014. He stated that he does not know in which Department the workers mentioned in Para 15 of the Affidavit were working and what work they were doing.

26. Shri Dabholkar also admitted that Santosh Govekar was doing the work of CNC Operator. He also admitted that workmen mentioned in Para 15 were not given any managerial duties. He claimed that he does not know whether duties stated by him in Para 15 are mentioned in the Appointment Letters of the workers. He admitted that none of the e-mails produced by him, it is recorded that they are the Supervisors. He further admitted that the duties mentioned in Para 15 of his Affidavit are not reflected in the Appointment letters of the workers mentioned in Para 15 of his Affidavit and that he cannot say anything to the suggestion that none of the Appointment Letters give the designation of the Party I workers as Supervisors. When shown the Appointment Letter of Milinda Haldankar alia Urvi Bandodkar and Anadha Naik at Exh.148 and 150 respectively, he stated that they were appointed as Data Entry Operators and when Appointment Letter of Dattahas Tilve was shown at Exh.149, he admitted that he was appointed as Operator. He also admitted that Trupti Sawant was appointed as Packer as per the Appointment Letter at Exh.151. It is also admitted by him that in the Department where Urvi Umesh Bandodkar was working, Tulsidas Dabholkar was the Departmental Head and that one Nikhil Moye was working as Shift In-charge in Coating Department and that under Shift In charge, there were Supervisors and that below supervisors, there are operators. He also admitted that the persons mentioned in Para 15 have to physically and manually carry out the work mentioned in Para 15h. He also admitted that persons mentioned in Para 15 have to physically and manually do the work mentioned in para 15i, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y, z, aa, bb, cc, dd, ee, ff, gg, hh of his affidavit.

27. The evidence of the above witness therefore clearly shows that the above workers were doing the work physically and that they were never supervising any workmen as they were doing the work of Machine Operators, Computer Operators, such as feeding entry in the Computer, preparing

invoices and other clerical work of the Store and Dispatch Department. None of the workmen had any supervisory or managerial powers. The witness, Shri Dabholkar was working in Bangalore from June, 2010 to May, 2014 and was not working with Party II at the time of dismissal of Party I workmen. He also admitted that none of the workmen who they have alleged to be Supervisors were given Appointment Letters to that effect. The Appointment Letters produced by the witness in the cross-examination do not show that they have been assigned the duty of a Supervisor. It is well settled that for a workman to be a supervisor, he must supervise the work of another workman and no evidence with regard to the same has been led by Party II. Not a single workman who worked under the above workmen has been examined and therefore, it has been sufficiently proved by Party I that the workmen mentioned in Issue No. 3B and 4 are the workmen as defined u/s 2(s) of the Industrial Disputes Act, 1947, on the contrary, the Party II has failed to rebut the said issues. The reliance placed on the above citations are therefore not applicable to the case at hand. The Party I having proved that persons mentioned in Issue No. 3B and 4 are the workmen in terms of the Act, Issue No. 3B and 4 have to be answered in the affirmative.

Issue No. 1 and 2

28. The above issues are taken up together as they are inter related as Party I workmen have alleged that Party II illegally dismissed the Party I workmen mentioned in the reference w.e.f. 06-09-2013 and that they have violated Section 33 of the Industrial Disputes Act and have not followed the provisions of the Act. It is claimed by Party II in its Written Statement that the action of Party II in removing the workmen mentioned in the reference w.e.f. 06-09-2013 of dismissal is on account of misconduct and that they could not conduct domestic inquiry at the relevant time on account of prevailing situation. Needless to mention, no show cause notice, charge-sheet or inquiry was conducted by Party II regarding the misconducts alleged against the Party I workmen and it is in such circumstances, the Party II have led evidence before the Court prior to the evidence of Party I workmen in order to prove the misconducts alleged against the Party I workmen and during the course of the evidence the Party II have examined Shri Neeraj Gupta, the Director of Party II, Shri Girish Dabholkar, Manager, Production, Ms. Swarnalata Rokkam, Sr. Manager, HR, Shri Nilesh Pawar, Manager-Operations and Shri Yogesh Sawal, Assistant Manager-Logistics.

29. Needless to mention, the Party II is required to frame specific charges or plead specifically charges in order to prove the misconduct, however, no specific charges have been alleged against the individual workman generally or vaguely. The allegations are against the body of workmen which is not sufficient to prove misconduct unless individual actions are attributed to them. The allegations as per the Written Statement of Party II are (i) go-slow tactics due to which Company suffered financial losses, (ii) refusal to carry out the instructions of the Supervisors and disobedience, (iii) blocking the entry of the Officers of Party II on 15-08-2013, 18-08-2013, 22-08-2013 and 23-08-2013 and (iv) resorting to illegal and unjustified strike.

30. The alleged misconducts are first (i) **go-slow tactics due to which Company suffered financial losses:** The Director of the Company Shri Neeraj Gupta has stated in his Affidavit that the Company is engaged in the production of ophthalmic lenses and that inspite of maintaining cordial and harmonious relationship with the workers, the Party I workmen intentionally, deliberately and willfully slowed down production from 13-04-2013 and as a result of go-slow, the Company suffered huge financial losses and by notice dated 15-04-2013, the workmen were informed that the Company has suffered huge financial losses which continued till 15-04-2013 and were advised to discharge the duty faithfully and diligently. He has produced the report dated 19-04-2013 at Exh. 70 of one Mr. Amit Mehta (GM-Operations) to show that there was go-slow tactic adopted by the workmen. However, the author of the report Shri Amit Mehta has not been examined to prove the said report. Nonetheless, the report states that he has been monitoring production for five days after 15-04-2013 but the report is itself dated 19-04-2013 which shows that he prepared the report even before five days.

31. Moreover, said Shri Amit came to be appointed only on 17-04-2013 as per Exh. 69. The said report is based on daily production report dated 13-04-2013 which has not been produced by Party II. The report has also no data whatsoever of what the production was before the alleged go-slow and what it became on account of alleged go slow. Moreover, the report as well as the evidence of Neeraj Gupta does not make reference as to which workmen concerned in the reference did what and how their actions amounted to misconducts of go slow. No specific allegations have been made against any individual workmen out of 143 workmen and therefore in the absence of any evidence with respect to allegation of

go-slow it cannot be said that Party I workmen were responsible for tactics of go slow and that the Company has suffered any losses on such account. The other witness examined by Party II, Shri Girish Dabholkar is completely silent on the aspect of any misconducts including go-slow. He had also admitted that he was posted in South India during the relevant time from June, 2010 to May, 2014 and therefore his evidence does not support the Party II with respect to alleged misconduct of go-slow.

32. The witness Ms. Swarnalata also has not stated anything with respect to the alleged go-slow. She has however stated in her Affidavit that the Management decided to appoint an Internal Inquiry Committee to inquire into the go-slow resorted to by the workmen and identify the manner in which the go-slow has been commenced and continued and pin point the consequences thereof and that the inquiry committee submitted a report indicating go-slow in the production and that the Management displayed on the Notice Board in the Factory and invited the attention of the workmen to the findings of the Inquiry Committee and advised the workmen the necessity of restoring the normalcy. In the cross-examination, she however admitted that they had not issued any show cause notice for go-slow and that workmen were not personally called before the Internal Committee to conduct the investigation. The witness, Shri Nilesh Pawar has nowhere stated with regard to the misconduct of go-slow and therefore his evidence has no relevance. The last witness Shri Yogesh Sawal has also nothing to say about the go-slow tactics allegedly resorted to by the workmen, individually or collectively and therefore the said allegation fails.

33. The second and third alleged misconducts are (ii) **refusal to carry out the instructions of the Supervisors and disobedience, and (iii) blocking the entry of the Officers of Party II on 15-08-2013, 18-08-2013, 22-08-2013 and 23-08-2013:** It is also alleged by Party II that the Party I workmen have refused to carry out the instructions of the Supervisors and disobedience and blocking the entry of the Officers of Party II on 15-08-2013, 18-08-2013, 22-08-2013 and 23-08-2013. The Director of Party II Shri Neeraj Gupta has claimed in his Affidavit that on 15-08-2013 his car was blocked when he was on the way to his Unit at Plot No.17A for some urgent and important work and when he reached there around 9.40 a.m., he saw Party I workmen blocking the Main Gate and when they saw his car, they blocked and gheroaed his car and

started shouting slogans and giving abusive words. He even saw Party I workmen blocking the entry of the essential staff through the Factory Gate and saw them blocking entry of Mr. Nilesh Pawar, Shri R. N. Shanbhag, Shri Nandukumar Jha, Shri Shankar Subhaji and Shri Yogesh Sawal who were required for the purpose of carrying out their work. The said Shri Nilesh Pawar requested Party I workmen and their members not to obstruct their entry and also invited their attention to the need and urgency in attendance of maintenance work but they continued with the blockade thereby creating a tense situation.

34. Shri Neeraj has also stated that a representation to that effect was submitted by Nilesh Pawar and others, so also by Supervisor Shri Nitin Kumar. He also stated that on 18-08-2013, the workers blocked and prevented the entry of said Shri Nilesh Pawar, R. N. Shanbhag and others which incident was reported to Shri Bhanu Naik. He also claimed that on 22-08-2013, it was reported to him by Swarnalata Rokkum that there was suspicious movements of Party I workmen in the Factory premises and that Bhanu Naik complained to the police, so also at around 5.00 p.m. he was informed that Party I workmen tried to block the entry of workmen in the second shift. He also claimed that on 23-08-2013 at around 5.00 p.m. second shift employees along with employees on illegal strike gheroaed the Company's senior personnel inside their respective chambers and prevented them from moving out for five hours. Shri Neeraj Gupta in his cross-examination was shown the photographs at Exh. 97 Colly, however, none of those photographs show that the car of Neeraj was blocked or gheroaed or stopped. The said photographs also show no sign of forceful blocking of the Gate by the workmen but they show that the workers had gathered outside the Gate and that it was raining. Even none of the workers in the photographs have been identified by any of the witnesses or specifically named. Shri Neeraj Gupta has admitted that there was provision of CCTV camera in Plot No.17A where alleged incident had taken place and that the photographs at Exh. 97 Colly are obtained from CCTV footage and that he has not produced any photographs showing the workers obstructing his vehicle. If it is his case that workers had blocked the car at the Gate, the Party II could have produced on record CCTV footage of the same.

35. Shri Neeraj Gupta also admitted that he has not named any of the workmen of the Company in the complaint filed before police and that there

are no names of the workmen in the notice dated 16-08-2013 at Exh. 44 and the notice dated 23-08-2013 at Exh. 52. He also admitted that he has not mentioned the specific abuses and filthy words in his Affidavit-in-Evidence or in the notices at Exh. 44, 52 and 53. He also admitted that they had not issued any charge-sheet to the Party I workmen nor conducted a departmental inquiry nor the workmen were called during the internal inquiry. He also admitted that Clause 25(b) of the Certified Standing Orders states that no order under sub-clause (ii) and (iii) of clause (a) shall be made unless the workman concerned has been informed in writing of alleged misconduct and given an opportunity to explain the circumstances alleged against him. However, in the entire pleadings and the evidence of Party II, no specific charges have been alleged against Party I workmen individually or collectively nor they have been issued a charge-sheet or conducted departmental inquiry. It therefore can be safely said that the Party II has failed to prove the alleged charges leveled against Party I workmen.

36. The second witness, Shri Girish Dabholkar, Sr. Manager-Production has nowhere stated anything with respect to the above alleged incident. He was also not admittedly present during the relevant time. His Affidavit is completely silent over the aspect of any misconduct and therefore his evidence pales into insignificance. The third witness, Ms. Swarnalata Rokkum has alleged that on 15-08-2013 the workmen all of a sudden blocked the entry of the essential staff namely Nilesh Pawar and others and that no employee of Party II could enter the Factory premises. She also alleged that on 18-08-2013 the workmen repeated their acts. Similarly, on 22-08-2013 there was suspicious movement of the Party I workmen and at around 5.30 p.m. they gathered at the Factory and tried to block the entry of the workers. Similarly, on 23-08-2013 the second shift employees along with employees on illegal strike gheroaed the Company personnel and prevented them from moving out. In the cross-examination, she admitted that 15-08-2013 was a public holiday and that she was not present on that day being a holiday. She also stated that she had not worked on 18-08-2013 being Sunday which is her weekly off and whatever she has stated in Para 14 of her Affidavit is based on information but she had not received the information from any particular person but from the records of the Department.

37. Ms. Swarnalata also stated that she does not have any record to show that Party I workmen assembled in front of the gate for full day on 12-08-2013, 13-08-2013, 16-08-2013 and 17-08-2013. She also admitted that the CCTV footage of Shri Nilesh Pawar and other as stated by her in Para 12 and 13 of her Affidavit are not available with them. When shown the photographs at Exh. 97 Colly and identified the persons namely; Nilesh Pawar, R. Shanbhag, Nandukumar Jha, she admitted that all are standing near the gate and Mr. Pawar was discussing with the workers and the workers seemed to be moving in photograph No. 6. She also admitted that as per the photographs at Exh. 97 Colly, people are seen with umbrellas. She also admitted that workers were not personally called before the Internal Committee which conducted the investigation. The evidence of above witness does not show any complicity of the Party I workmen. The other witness namely; Nilesh Pawar states about the incident on 15-08-2013 and specifically named the workmen blocking his entry and other personnel, so also of the incident of 18-08-2013, 22-08-2013 and 23-08-2013 in his Affidavit in Evidence. However, in the cross-examination, he admitted that there is a CCTV camera at Plot No. 17A and that people going inside and outside the factory is recorded in the camera.

38. When shown the photographs at Exh. 97 Colly, Nilesh Pawar has admitted that he is seen discussing with the workers and that on 18-08-2013 being Sunday all the workers had a duty off. He also admitted that on 15-08-2013, being a paid holiday the workers were not on duty. Shri Nilesh therefore admitted that workers were not in the Company on 15-08-2013 and 18-08-2013 being off days. He also has not identified the Party I workmen in the CCTV photographs at Exh. 97 Colly nor the photographs show any incriminatory circumstances against the workmen, on the contrary he has admitted that in the photographs he is seen discussing with the workers. No other witnesses have named the workmen except for the first time in his evidence by Nilesh Pawar which is nothing but an afterthought. The last witness, Shri Yogesh Sawal although has stated about the incident on 15-08-2013, 18-08-2013, 22-08-2013 and 23-08-2013 and has named the workmen for the first time regarding their complicity in the incident, he admitted that he is not seen in the photograph at Exh. 97 Colly and that he has not produced any document to show that he was on duty on 15-08-2013 and that he has not typed the police complaint at Exh. 51 Colly. He also admitted that he was at Plot No. 4 while on duty and not at the

place of the incident. It is therefore clear that Management has failed to adduce any evidence linking the workmen individually or collectively to the alleged incident nor the misconducts are spelt out against each workman as rightly pointed out by Learned Adv. S. P. Gaonkar for Party I and therefore the Party II has failed to prove the above misconducts.

39. The fourth alleged misconduct is (iv) **resorting to illegal and unjustified strike:** The witness, Shri Neeraj Gupta has alleged that the indiscipline of Party I workmen reached its peak on 15-08-2013 and that they blocked the entry of the Officials and thereafter on 18-08-2013, 22-08-2013 and 23-08-2013 and that the activities of workmen are illegal and are of criminal nature. He also stated that inspite of belligerent attitude of the workmen, the Party II decided to give an opportunity to them to restore normalcy and thereafter revoked suspension of operation by notice dated 27-08-2013 and informed the workmen of commencement of normal operation from 27-08-2013 and advised them to report for work however, none of the workmen reported for work and continued with the illegal and unjustified strike. The Management also requested the workmen to resume duties and copy of the letter dated 29-08-2013 was sent by registered A/D to individual workmen however, the workmen replied by their letter dated 2-9-2013 but the Management vide their letter dated 30-08-2013 displayed on the notice board advised the workmen to resume duties however the workmen failed to comply. Shri Neeraj Gupta in his cross-examination has however admitted that no workmen were called during the internal inquiry and that no charge-sheet have been issued to the workmen. He also admitted that no names of the workmen referred in the reference are mentioned in the Inquiry Report at Exh.72 and that they have not named any workmen of the company in the charge sheet by the police. It is not understood why their names are not reflected if they had resorted to illegal and unjustified strike. The alleged misconduct therefore remains unproved. The above evidence therefore clearly shows that the Management has failed to prove any misconducts against the Party I workmen. The Party I has thus proved that their termination from services was without following provisions of Industrial Disputes Act so also they have been dismissed illegally as part of victimization by the management. It is therefore, issue No.1 and 2 are answered in the affirmative.

Issues No. 3 and 5.

40. Learned Advocate Shri S. P. Gaonkar has submitted that the action of the Management in illegally dismissing the Party I workmen without holding a departmental inquiry during the pendency of the industrial dispute is bad-in-law. He submitted that there is clear violation of Section 33 of Industrial Dispute Act which renders the entire dismissal ab initio void. There is no dispute that the Charter of demands bearing IT 40/12 filed by the Union with respect to wage revision of all the workmen of Party II was pending before the Tribunal on the date of dismissal of Party I workmen on 06-09-2013. The Charter of demands dated 01.12.2010 at Exh.32 was raised by the Goa Trade and Commercial Workers' Union for all the three manufacturing Units of Party II including Plot 17A. The Party II at Para 44A onwards of the amended Written Statement has admitted that Charter of Demands resulted in a reference IT No.40/12 and was pending since 2012. The workmen concerned in the reference will be also workmen concerned in the Charter of demands reference as Charter of demands was raised by the workers of all the three Units and all the three Units are considered as one by the Management as the Certified Standing Orders cover all the three Units. Moreover, the witness of Management, Shri Neeraj has admitted that the notices at Exh. 43 Colly for go-slow pertain to all the plots including Plot No.17A. Needless to mention, Party II has not shown any document nor adduced any evidence that Unit at Plot No.17 is different and distinct from other Units.

41. Moreover, the Union of Party I, Gomantak Mazdoor Sangh had written to the Employer that they are adopting the same Charter of demands as raised by the Goa Trade and Commercial Workers' Union as seen from Exh. 188. There is no dispute that by virtue of Section 17 and 18 of the Industrial Disputes Act, any Award which will be passed in the Charter of demands reference namely IT 40/12 will be applicable to all the workmen of the Party II. Moreover, the Charter of demands dated 25-06-2013 at Exh.188 was raised on behalf of Party I and was pending before Conciliation Officer at the time of dismissal of Party I workmen. Section 33 of Industrial Disputes Act mandates that if there is violation of the said provision, the entire dismissal becomes void ab initio. Section 33 mandates that service conditions must remain unchanged during pendency of industrial dispute and under Section 33(2)(b) of the Act, if there is any misconduct not connected with the pending dispute, then application for approval needs to be filed. The Management has clearly violated Section

33 of the Act as Charter of demands dated 25-06-2013 was pending before the Conciliation Officer.

42. It is, therefore, the action of Party II in dismissing the Party I workmen w.e.f. 06-09-2013 when the matter of Charter of demands was pending before the Tribunal and before the Conciliation Officer is in clear violation of Section 33 of the Industrial Disputes Act. The Hon'ble Apex Court in the case of **Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd vs Ram Gopal Sharma and others, (2002) 2 SCC 244** has clearly laid down that if the Employer violates Section 33, then its action is clearly void ab initio and the employees are deemed to be in service. It is therefore Party I has proved that Party II has violated Sec. 33 of the Industrial Disputes Act, 1947. The Party II however, has failed to prove that the Charter of Demands dated 01-12-2010 by Goa Trade and Commercial Workers' Union was not on behalf of the workmen on Plot No.17A as the three Units on Plot No. 50, 12, and 13 and Plot No. 17A are three separate Units having separate legal entity and therefore cannot be clubbed as single Unit for any statutory purpose, hence Issue No. 3 is answered in the affirmative and Issue No. 5 is answered in the negative.

Issues No. 6.

43. Needless to mention, the Party I has proved that the Party II in violation of Section 33 of Industrial Disputes Act and without following the provisions of Industrial Disputes Act have illegally dismissed all the 142 workmen mentioned in the reference w.e.f. 06-09-2013 and that action of the Management of M/s GKB Hi-Tech Lenses Pvt. Ltd., Tivim Industrial Estate, Karaswada in terminating the services of the Party I workmen is illegal and unjustified and that in terms of constitutional Bench in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd, supra once the dismissal is found to be violated of Section 33 of the Act, the workmen would be deemed to be in service and are entitled for reinstatement with full back wages and continuity in service. However, it is a matter of record that the Hon'ble High Court in Writ Petition No. 170 of 2015 dated 21-11-2017 **between Dattahas Tilve and 141 Ors. v/s M/s GKB Hi-Tech Lenses Private Limited and Anr.** in which by consent of the Parties, the workmen were given an offer for fresh employment to 75 workmen and out of which 28 workmen had accepted the offer and joined their duties. It is also a matter of record that another 25 workmen have subsequently joined the Company. It is thus a total of 53 workmen have joined the Company as per Exh. 204 Colly and that only 89 workmen are before the Tribunal. Be that as it may, the Party I workmen including those workmen who have joined the

Company are all deemed to be in service from the date they were dismissed w.e.f. 06-09-2013 and therefore all the workmen are entitled for re-instatement with full back wages and continuity in service w.e.f. 06-09-2013. They are therefore entitled for the relief claimed.

44. In the result, I pass the following:

ORDER

- (i) It is hereby held that the action of the management, M/s GKB Hi-Tech Lenses Private Limited, Tivim Industrial Estate, Tivim, Karaswada, Mapusa-Goa in terminating the services of 142 workmen w.e.f. 06-09-2013 is illegal and unjustified.
- (ii) The Party I/Workmen are entitled for re-instatement in service with full back wages and continuity in service w.e.f. 06-08-2013.
- (iii) No order as to costs.
- (iv) Inform the Government accordingly.

Sd/-

(Vincent D'Silva)

Presiding Officer,
Industrial Tribunal and
Labour Court.

Department of Law & Judiciary

Law (Establishment) Division

Notification

No. 14/16/2019-LD (Estt.)/586

The following letter No. HCB/GOA/REG-09/2021 dated 04-02-2021 which has been issued by the High Court of Bombay at Goa, Panaji, is hereby published for general information of the public.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 09th March, 2021.

**High Court of Bombay
at Goa, Panaji-Goa**

Ref.: HCB/GOA/REG-09/2021

As approved by the Hon'ble The Chief Justice, High Court of Bombay, the Court working hours of the High Court of Bombay at Goa are changed since 1st February, 2021.

The Court working hours is as per the chart given below:

Court working hours (Dais timing)

1st Session	09.00 a.m. to 12.00 p.m.
Break	12.00 p.m. to 12.30 p.m.
2nd Session	12.30 p.m. to 2.30 p.m.

The staff working hours is in two batches as per charts given below:

Batch I – The staff which are required for functioning of Court

Batch I Timings (For Group A-C)	Batch I Timings (For Group D)
08:30 a.m. to 12:00 p.m.	08:00 a.m. to 12:00 p.m.
12:30 p.m. to 03:30 p.m.	12:30 p.m. to 03:45 p.m.
12:00 p.m. to 12:30 p.m.	12:00 p.m. to 12:30 p.m.
Break	Break

Batch II Timings (For Group A-C)	Batch II Timings (For Group D)
10:00 a.m. to 01:00 p.m.	09:30 a.m. to 01:00 p.m.
02:00 p.m. to 05:30 p.m.	02:00 p.m. to 05:45 p.m.
01:00 p.m. to 02:00 p.m.	01:00 p.m. to 02:00 p.m.
Break	Break

You are requested to kindly take note of this and inform all concerned.

Dinesh R. Shetty, Registrar (Admin.).

Panaji, 4th February, 2021.

Addendum

No. 2-3-2020-LD(Estt.)/574

Read: i) Order No. 2-3-2020-LD(Estt.)/1772 dated 03-11-2020.

ii) Corrigendum No. 2-3-2020-LD(Estt.)/366 dated 15-02-2021.

In the above read Order, the following lines shall be added to the 3rd Para in the 6th line after fourth word:-

"The officers promoted on regular basis to Civil Registrar-cum-Sub-Registrar are entitled for pay and allowances from the date of accepting the promotion in terms of F.R. 17 (1)" i.e. the date from which they assumed their duties."

All the remaining contents in the above read Order shall remain unchanged.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 09th March, 2021.

Department of Personnel

Order

No. 6/13/2017-PER/683

On the recommendation of the Goa Services Board, the Governor of Goa is pleased to transfer and post Shri Dipak M. Bandekar, Director of Industries, Trade & Commerce as Joint Secretary (Protocol), with immediate effect, in public interest thereby relieving Shri Shivaji B. Dessai, Director of Public Grievances of the additional charge.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).

Porvorim, 09th March, 2021.

Order

No. 7/3/2019-PER/684

Read: Order No. 14020/01/2020-UTS.I dated 05-01-2021.

The Governor of Goa is pleased to appoint Ms. Swetika Sachan, IAS (AGMUT 2014) as Director of Industries, Trade & Commerce with immediate effect.

Ms. Swetika Sachan, IAS has reported to the State Administration on 04-03-2021 (b.n.).

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).

Porvorim, 09th March, 2021.

Order

No. 4/4/2018-PER/723

Read: Government Order No. 7/4/2017-PER/2859 dated 19-09-2018.

On the recommendation of Goa Public Service Commission as conveyed vide its letter No. COM/II/12/18(1)/2021/965 dated 23-02-2021, the Governor of Goa is pleased to declare successful completion of probation period of Shri Krupashankara Mysore Sethuram, Principal/Head of the Institute in Goa College of Engineering w.e.f. 12-11-2018 to 11-11-2019 and to confirm his services in the post.

By order and in the name of the Governor of Goa.

Maya Pednekar, Under Secretary (Personnel-II).

Porvorim, 12th March, 2021.

Notification

No. 7/3/2019-PER/685

- Read: 1. Notification No. 7/3/2019-PER/2347 dated 06-10-2020.
2. Notification No. 7/21/2017-PER/299 dated 29-01-2021.
3. Notification No. 7/21/2017-PER/302 dated 29-01-2021.

In partial modification of Notifications referred in the preamble, the Governor of Goa is pleased to order the allocation of work/Departments amongst the Secretaries to the Government as follows with immediate effect:-

Sr. No.	Name & Designation	Department
1	2	3
1.	Shri Sanjay Gihar, IAS (2008), Secretary (Water Resources)	1. Water Resources. 2. Provedoria. 3. Rural Development. 4. Panchayats. 5. Housing. 6. Official Language. 7. Nodal Officer SBM (R) and PMAY (R). 8. Art & Culture. 9. Tribal Welfare. 10. Civil Supplies.
2.	Shri Ravi Dhawan, IAS (2011) Secretary (General Administration)	1. General Administration. 2. Health. 3. Social Welfare. 4. Women and Child Development. 5. Goa Gazetter. 6. Printing and Stationery. 7. Museum. 8. Protocol. 9. MD & CEO Imagine Panaji Smart City Development Ltd.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 09th March, 2021.

Notification

No. 7/3/2019-PER/730

- Read: 1. Notification No. 7/3/2019-PER/2347 dated 06-10-2020.

2. Notification No. 7/21/2017-PER/299 dated 29-01-2021.
3. Notification No. 7/21/2017-PER/302 dated 29-01-2021.
4. Notification No. 7/3/2019-PER/685 dated 09-03-2021.
5. Order No. 7/3/2019-PER/539 dated 22-02-2021.

In partial modification of the Notifications referred to in the preamble, the Governor of Goa is pleased to order the allocation of work/Departments to Shri Chokha Ram Garg, IAS Secretary to the Government as follows with immediate effect:-

1. Shri Chokha Ram Garg, IAS (2008), Secretary (Law & Judiciary and Legislative Affairs)	1. Law & Judiciary and Legislative Affairs. 2. Skill Development & Entrepreneurship. 3. Archeology. 4. Archives. 5. Co-operation.
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By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 15th March, 2021.

Corrigendum

No. 6/13/2017-PER/700

- Read: Order No. 6/13/2017-PER/683 dated 09-03-2021.

In the order referred to in preamble, the words 'Joint Secretary (Protocol)' shall be substituted to read as 'Additional Secretary (Protocol)'.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 10th March, 2021.

Department of Public Health**Order**

No. 8/26/91-IV/PHD/528

Ex-post facto approval of the Government is hereby conveyed to accept the notice of voluntary retirement dated 10-12-2020 tendered by Dr. Jyoti R. Rao, Professor & Head, Department of Periodontics under Goa Dental College & Hospital, Bambolim, Goa under Rule 48 (A)(1) of CCS (Pension) Rules, 1972 and to relieve her from the post of

Professor & Head, Department of Periodontics under Goa Dental College & Hospital with effect from 16-03-2021 (a.n.).

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health-I).
Porvorim, 15th March, 2021.

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Department of Social Welfare
Directorate of Social Welfare

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Order

No. 13-225-2015-16-ADMN/Part V(i)/5208/A

Subject: Right to Information Act, 2005.

As envisaged under Section 5(2) of the Right to Information Act, 2005 the following officer/official of District Welfare Office South Goa, Margao are hereby designated as Public Information Officer and Assistant Public Information Officer of District Welfare Office of Directorate of Social Welfare at South Goa, Margao with immediate effect.

1. Annet Veena Sequeira — Public Information Officer.
e Gomes
2. Chitragandha B. Dessai, — Assistant Public Information Officer.
UDC

Umeshchandra L. Joshi, Director & ex officio Joint Secretary (Social Welfare).

Panaji, 26th February, 2021.

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Department of Urban Development
(Municipal Administration)

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Order

No. LSG/MUN/3182/68-C/PW&UD/5682

Read: Order No. LSG/MUN/3182/68-C/PW&UD/5036 dated 29-01-2021.

In pursuance of sub-section (2) of Section 71 of the Goa Municipalities Act, 1968 (Act 7 of 1969), I, Shri Gurudas P. Pilarnekar, Director of Urban Development hereby withdraw the Order No. LSG/MUN/3182/60-C/PW&UD/5036 dated 29-01-2021 published in the Official Gazette Series II No. 45 dated 4th February, 2021 with immediate effect.

Gurudas P. Pilarnekar, Director (Urban Development).

Panaji, 12th March, 2021.

Notification

No. LSG/MUN/3182/68-C/PW&UD/1342

Read: Government Notification No. LSG/MUN/3182/68-C/PW&UD/4061 dated 18th March, 2021.

In exercise of the powers conferred by sub-section (3) of Section 71 of the Goa Municipalities Act, 1968 (Act 7 of 1969) (hereinafter called the 'said Act'), and in supersession of the Government Notification No. LSG/MUN/3182/68-C/PW&UD/4061 dated 18-03-2020, published in the Official Gazette Series II No. 52 dated 26-03-2020, the Government of Goa hereby appoints Shri Clen Madeira as the Additional Director of Urban Development, for the purposes of the said Act, with effect from 06-08-2020.

He shall have jurisdiction over the whole of the State of Goa and shall exercise all the powers of the Director of Urban Development during the absence of the Director.

By order and in the name of the Governor of Goa.

Amit Satija (IAS), Secretary (Urban Development).
Panaji, 27th August, 2020.

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